

Message Text

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ORIGIN L-02

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DRAFTED BY L/M:KEMALMBORG:AD

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NEA/IAN - MR. MORLEY (SUB)

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FBO - MR. SWAN

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FM SECSTATE WASHDC

TO AMEMBASSY NEW DELHI

UNCLAS STATE 276005

E.O. 11652: N/A

TAGS: EFIN, ABLD, IN

SUBJECT: GENERATOR PURCHASE

REF: DEPTTEL 258509

1. SUMMARY: TEXT OF LETTER FROM SHYROW TRANSMITTED TO EMBASSY FOR COMMENT.
2. TEXT OF LETTER FROM HYDE OF SHYROW IN RESPONSE TO LEGAL OFFICER'S LETTER CARRYING OUT APPROACH PER REFTEL IS SET FORTH BELOW. REQUEST EMBASSY COMMENT.
3. "WE APPRECIATE ANY EFFORTS YOU CAN MAKE TO SPEED UP THE RESOLUTION OF OUR PROBLEM WHICH IS NOW CAUSING SERIOUS REPERCUSSIONS AND I AM SURE YOU ARE AWARE ACTION IS DESPERATELY NEEDED, IF WE ARE TO SURVIVE THIS DEBACLE.

"ONE MISLEADING FACTOR RAISED IN EARLIER CORRESPONDENCE BETWEEN THE EMBASSY IN NEW DELHI AND MR. ROBERT MORELY AT THE INDIAN DESK IN WASHINGTON SHOULD BE POINTED OUT- THE PROBLEM DOES NOT LIE IN THE TYPE OF BANK ACCOUNT INTO WHICH FUNDS WERE ORIGINALLY DEPOSITED BY OUR AGENT, MR. DHYANI,
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AS CLAIMED BY THE EMBASSY.

"THERE IS A BIG DIFFERENCE BETWEEN AN EXTERNAL ACCOUNT AND A NONRESIDENT ACCOUNT. FROM THE FORMER, CHECKS CAN BE ISSUED IN CONVERTIBLE CURRENCY AT WILL. NO ONE INCLUDING MR. DHYANI EVER REQUESTED AN EXTERNAL ACCOUNT.

"THERE WAS INITIALLY SOME ARGUMENT ABOUT MR. DHYANI HOLDING A RESIDENT ACCOUNT WHEN IN FACT HE IS NORMALLY NONRESIDENT. BUT THIS ISSUE HAS LONG SINCE BEEN CLEARED UP.

"WE APPOINTED A NEW AGENT IN NEW DELHI AIRCON COMPANY IN INDIA, LONG ESTABLISHED AND WELL RESPECTED WHO ALSO REPRESENTS A NUMBER OF INTERNATIONAL AIR CRAFT CARRIERS. AT THE TIME IT WAS SUGGESTED THE FUNDS BE TRANSFERRED TO THEIR ACCOUNT AND THEY AGREED AS DID TWO OTHER LARGE COMPANIES IN NEW DELHI.

"THIS IS MENTIONED TO ESTABLISH THAT THE PROBLEM DOES NOT LIE IN THE TYPE OF BANK ACCOUNT.

"THE INDIAN FINANCE MINISTRY AGREED TO ALLOW PAYMENT OF THE AIR FREIGHT CHARGES IN FOREIGN EXCHANGE JUST AS THEY AGREED TO ALLOW OUR BEING PAID FOR THE GENERATORS IN RUPEES BUT THEY HAVE NOT KEPT THEIR WORD.

"EQUALLY, THE EMBASSY STAFF HAS GONE 'CAP IN HAND' SO TO SPEAK TO THE MINISTRY AND HAVE NEVER ADOPTED A FIRM POSITION OR DEMANDED TO KNOW (1) WHEN THE MATTER WILL BE RESOLVED OR (2) IF THERE IS A PROBLEM, WHAT IS THE EXACT NATURE OF THE PROBLEM?

"THEY ARE CONTENT TO ACCEPT VAGUE PROMISES THAT THE MATTER IS BEING HANDLED, ETC, ETC.

"I AM INFORMED BY BROMLEY SMITH OF PAN AVION THERE IS NO EVIDENCE OF ANY ACTION BEING TAKEN BY THE EMBASSY SINCE NOVEMBER 1, 1974 AND IN FACT THEY HAVE NOT EVEN BOTHERED TO TELEPHONE HIM DESPITE CABLES TO THE AMBASSADOR AND SIGNALS FROM FBO WASHINGTON.

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"THERE WAS IN FACT A PROBLEM WITH OUR NOMINEE, MR. DHYANI, WHO STUPIDLY TRIED TO ASSERT THE FUNDS WERE HIS TO DO AS HE PLEASED. HOWEVER, HE HAS SUBSEQUENTLY SIGNED COMPLETE RELEASES IN NEW DELHI WITH OUR LEGAL COUNSEL. THUS NO PROBLEM EXISTS NOW ON THAT FRONT AS FAR AS WE CAN DETERMINE.

-THE PROBLEM STILL LIES IN THE INDIAN GOVERNMENT'S FAILURE

TO RELEASE THE FUNDS EITHER FOR AIR FREIGHT AS AGREED OR
OUR INTERNATIONAL USE AND INTERNATIONAL BUSINESS PURPOSES.

"TO CONCLUDE WE SUBMITTED A LIST OF PROPOSED BUSINESS
ACTIVITIES TO THE EMBASSY ON OCTOBER 31, 1974 (COPIES
ATTACHED.

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"WE ALSO ON THAT SAME DATE SENT A LETTER TO MR. PETER LANDE
WHICH WAS NOT ANSWERED. TO MY MIND THAT LETTER IS STILL
THE ESSENCE OF OUR PROBLEMS AND REQUIREMENTS. IT HAS BEEN
THREE MONTHS SINCE THE GENERATORS HAVE BEEN DELIVERED TO
THE U.S. EMBASSY. IS IT NOT POSSIBLE FOR US TO ISSUE A
CHECK MADE PAYABLE TO THE U.S. EMBASSY FOR \$400,000.00
OR A SIMILAR AMOUNT IN RUPEES CERTIFIED BY THE BANK TO BE
PAID ONCE THE ACCOUNT IS UNFROZEN?

"THE EMBASSY IN TURN COULD PAY US IN CASH (IN RUPEES) FOR
A SIMILAR AMOUNT. THIS WOULD SOLVE A MULTITUDE OF PROBLEMS.

"AS A SEPARATE ISSUE MEANTIME, PRESSURE SHOULD BE APPLIED
TO THE INDIAN GOVERNMENT FOR THE RELEASE OF AIR FREIGHT
CHARGES AS THEY AGREED.

"WE LOOK FORWARD TO HEARING FROM YOU AND HOPE YOU MAY ALSO
SUGGEST A METHOD WHEREIN WE MAY BE COMPENSATED FOR THE
EXTRA EXPENSES INCURRED DUE TO THE PRESENT PROBLEMS WHICH
ARE CERTAINLY NOT OF OUR CREATION. KISSINGER

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